

1 is that correct?

2 A That is correct.

3 Q Which at 45 degrees in Table 1.1, which had the greater
4 shelf-life, is that with ethanol or that without ethanol?

5 A At 45 degrees in Table 1.1?

6 Q Yes.

7 A There's two 45 degrees.

8 Q Okay, the first one.

9 A You are asking me to compare --

10 Q Ethanol versus no ethanol, item B, 45 degrees, I'm
11 asking you which one of those would have the greater
12 shelf-life?

13 A Based upon the rate constant -- the rate constant for
14 the no ethanol one is lower than the rate constant for the
15 ethanol. But the P value tells me they are not significantly
16 different on statistical analysis because the P value is
17 greater at .05.

18 Q So you could not draw a conclusion between the ethanol
19 and no ethanol under B; is that correct?

20 A That's right, they are not different statistically.

21 Q They are not different statistically?

22 A When tested to see if they are different or not, there
23 are statistical analyses that you can carry out. When
24 applied to these two figures, the P value, which is a measure
25 of the statistical significance, tells you there is no

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1 significant difference between the two values.

2 Q How about under C?

3 A It's different there under C because the analysis of
4 the ethanol-containing one is 227 and the no ethanol one is
5 166.

6 Q And does the P value indicate they are statistically
7 significant?

8 A It does indicate they are statistically significant.
9 The qualifier is that is the outlier result from the data
10 that we talked about before.

11 Q Well, okay. Which of those two has the greater
12 shelf-life based upon the data that is presented there?

13 A Well, the one that would have the longest shelf-life
14 based upon the data here is the no ethanol. But again that
15 is the outlier.

16 Q That is the outlier?

17 A That is the outlier at 45 degrees.

18 Q It's statistically significant, isn't it?

19 A It is.

20 Q Can you explain to me how something that is
21 statistically significant becomes an outlier?

22 A I have been through this before. If you look in Table
23 1.2 at all the different rate constants for the ethanol
24 studies there is one which is different, and that is the
25 SP88/026, the figure is 226.6 and that is clearly different

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1 from the figures above, and that indicates to me that it is
2 an outlier and the statistician tested for that and showed it
3 to be an outlier.

4 Q Can you show me where that occurred in this report?

5 A Where the analysis occurred?

6 Q Yes, the outlier analysis.

7 A Bear with me for a time.

8 Q Sure.

9 (Pause in the proceedings.)

10 A It's under the, Y009645 under UK ingredients, first
11 paragraph, it talks about a chi-square test and it says there
12 that it is possible to pool the data as long as you exclude
13 the value from program SP88/026 but it's not possible if you
14 include it.

15 Q That is your definition of an outlier analysis?

16 A Yes.

17 Q So the data in Table 1.1 which was considered the most
18 statistically significant is the one that you considered the
19 outlier; is that correct?

20 A It is for the reasons I gave.

21 Q Table 1.2, under 45 degrees centigrade, this is still
22 for the UK test, under 45 degrees centigrade which of the
23 mean rates would indicate the greater stability, the no
24 ethanol formulae that were reviewed or the ethanol formulae
25 that were reviewed?

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1 A No.

2 Q You were not told the reason for your deposition?

3 A I believed that I was going to validate the data I
4 provided.

5 Q Why did you not include the UK data, just generally?

6 MR. LEWIN: We've had it generally. I object.

7 THE COURT: This is the last time, Mr. Rubin. Go
8 ahead, briefly, Doctor.

9 A Having reviewed it, I believed it was unreliable and
10 unrepresentative. Rather than cherry pick the data at 30
11 degrees and submit it in my declaration, I decided to put it
12 all to one side.

13 Q Okay. If you will turn to your declaration, which is
14 also in your documents there, which is Plaintiffs' 250. Are
15 you there?

16 A My declaration?

17 Q Yes.

18 A Okay.

19 Q Page 3. It's the second from the last page of your
20 declaration.

21 A Okay.

22 Q Do you see a table at the bottom?

23 A Yes.

24 Q And does that table reflect Table 2.3 from the previous
25 exhibit we were looking at?

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